**THE HON'BLE SRI JUSTICE BILAL NAZKI**

**AND**

**THE HON'BLE SRI JUSTICE G.CHANDRAIAH**

**WRIT PETITION NO.8097 OF 1996**

13-02-2006

Between:

Md Ameer … Petitioner

And

Regional Transport Officer … Respondent

**THE HON'BLE SRI JUSTICE BILAL NAZKI**

**AND**

**THE HON'BLE SRI JUSTICE G.CHANDRAIAH**

**WRIT PETITION NO.8097 OF 1996**

**O R D E R (Per the Hon'ble Sri Bilal Nazki, J):**

Heard learned counsel for the parties.

Petitioner is aggrieved of an order passed by the respondent dated 21-03-1996. It appears that the petitioner was running a vehicle from Pargi to Dharur Railway Station. The distance was 27 kms. Thereafter, he was allowed to change the route and according to the petitioner, the route measured 39.5 kms, whereas the respondent's case is that it measured 40.5 kms. The controversy is raised because if the route is 40 kms or below, then the rate of tax would be different than if the route is above 40 kms. Learned counsel for the petitioner submits that earlier the length of the route on which his vehicle was being plied was 27 kms and thereafter 13 kms were added, which was stated by the respondent even himself in the show cause notice dated 20-09-1995 and even in the order impugned. The respondent himself has stated that the route length was 27 kms + 13 kms. Though in the counter-affidavit, it has been stated that the measurements of route are taken in consultation with APSRTC and by surveyors, but it is not stated as to when such measurements were taken. It is only stated that as per the permit register, the length of the route was 40.5 kms, since the petitioner plies the vehicle four times a day, therefore, the total length would be 162 kms. We are not convinced as to whether any measurement was taken in fact or not, particularly, when the respondent himself in the show cause notice as well as in the impugned order referred to the measurement as 40 kms. Therefore, we set aside the impugned order, direct the respondent to take fresh measurement in the presence of the petitioner and thereafter pass appropriate orders.

The writ petition is accordingly allowed. No order as to costs.

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(Bilal Nazki, J)

13th February, 2006

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(G.Chandraiah, J)

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